



## REPORT | ADMINISTRATIVE REPORT TO COUNCIL

**PRESENTED:** January 9, 2018  
**FROM:** Resort Experience  
**SUBJECT:** ZONING AMENDMENT BYLAW (CANNABIS RETAIL, PRODUCTION AND DISTRIBUTION) NO. 2159, 2017

**REPORT:** 18-004  
**FILE:** RZ1140

### COMMENT/RECOMMENDATION FROM THE CHIEF ADMINISTRATIVE OFFICER

That the recommendation of the General Manager of Resort Experience be endorsed.

### RECOMMENDATION

That Council consider giving first and second readings to “Zoning Amendment Bylaw (Cannabis Retail, Production and Distribution) No. 2159, 2017”; and

That Council authorize staff to schedule a Public Hearing regarding “Zoning Amendment Bylaw (Cannabis Retail, Production and Distribution) No. 2159, 2017”.

### REFERENCES

Appendix “A” – Zoning Amendment Bylaw (Cannabis Retail, Production and Distribution) No. 2159, 2017.

Appendix “B” – RMOW response to request for written submissions on the provincial regulatory framework for the legalization of recreational cannabis.

### PURPOSE OF REPORT

This Report presents “Zoning Amendment Bylaw (Cannabis Retail, Production and Distribution) No. 2159, 2017”, the first in what is likely a series of bylaws to be brought forward prior to the federal legalization of “recreational” Cannabis in July of 2018. Currently, retailing cannabis is prohibited under federal legislation and “Zoning and Parking Bylaw No. 303, 2015” (the Zoning Bylaw). The Zoning Bylaw limits cannabis production and distribution to a single site in Function Junction. Bylaw No. 2159 will amend the Zoning Bylaw to maintain the status quo for cannabis production, distribution and retail in Whistler; creating a “secure position” from which the Resort Municipality of Whistler (RMOW) can consider how recreational cannabis is introduced into the community. This Report also requests that Council authorize staff to schedule a Public Hearing regarding “Zoning Amendment Bylaw (Cannabis Retail, Production and Distribution) No. 2159, 2017”.

### DISCUSSION

#### Background

In June of 2013, the Government of Canada implemented the *Marihuana for Medical Purposes Program* (MMPR), a new licensing system that permitted federally-approved commercial operations to produce and distribute medicinal cannabis. This was a change from the longstanding *Marihuana Medical Access Regulations* (MMAR) which provided patients with a number of options to grow their own medicinal cannabis. Unlike the MMAR, the new MMPR allowed only federally-licensed

commercial operations to produce and distribute medicinal cannabis. Under the MMPR, retailing cannabis was still prohibited; producers could only ship directly to pharmacies, doctors or patients via courier or Canada Post. The effect of the MMPR was a new demand for commercial cannabis production and distribution facilities and the introduction of a new commercial land use that municipalities could regulate through zoning.

During implementation of the MMPR in 2013, Whistler Medical Marihuana Corporation notified the RMOW of their intention to pursue a commercial medical cannabis license at 113 -1330 Alpha Lake Road in Function Junction. Council directed staff to prepare a zoning bylaw amendment to regulate activities related to the research, development, production and distribution of medicinal cannabis. Since retailing cannabis was still illegal in Canada, there was technically no need to specifically address this issue in the zoning amendment.

In 2014, the RMOW adopted “Zoning Amendment Bylaw (Marihuana Production) No. 2042, 2014” to limit the production and distribution of cannabis for medical purposes to Whistler Medical Marihuana Corporation’s facility. Whistler Medical Marihuana Corporation subsequently became a licensed producer of medicinal cannabis from Health Canada and has been operating since March of 2014.

In 2016, the MMPR was replaced with the *Access to Cannabis for Medical Purposes Regulations* (ACMPR) which is essentially a combination of the MMPR and MMAR. In addition to being able to buy medicinal cannabis from licensed producers, patients once again have a number of options to grow their own medicinal cannabis.

On April 13, 2017, the Government of Canada introduced the *Cannabis Act* which will make cannabis legal for adult use, with or without a prescription. The *Cannabis Act* also allows the sale of recreational cannabis to adults and production of recreational cannabis, including home cultivation of up to four plants either indoors or outdoors. The ACMPR system regulating medicinal cannabis will remain in force and provinces have the power to further regulate recreational cannabis.

Decriminalizing cannabis is only the first step in regulating a legal recreational cannabis industry. Each level of government must determine its own rules within their respective scope of authority. With the *Cannabis Act* expected to come into force in July 2018, governments at all levels have been scrambling to create a regulatory structure for recreational cannabis.

Generally speaking, federal, provincial, and municipal powers to regulate recreational cannabis can be broken down as follows:

- The federal government sets criminal laws (e.g. impaired driving, trafficking) and “baseline” home cultivation, production, possession and purchase laws (e.g. the four plant limit for home cultivation). These must be followed throughout Canada and cannot be supplanted with more lenient municipal or provincial rules. However, stricter provincial or municipal rules in some of these areas may be possible.
- Provinces can control the supply and distribution of cannabis within their borders. This can include prohibiting or restricting home cultivation, and monopolizing production, distribution or retail—i.e. making the province or its agents the sole supplier of recreational cannabis. The provinces can also create additional rules related to use and possession of recreational cannabis such as youth possession rules, stricter personal possession limits, public smoking rules and drug-impaired driving rules.
- Municipalities are expected to be able to regulate cannabis within their scope of authority, such as through zoning and anti-smoking bylaws. However, the Province has the ability to

expand or restrict these powers, to impose requirements on municipalities (e.g. requiring municipalities to license and inspect home cultivation), or to simply render municipal regulations unnecessary (e.g. prohibiting home cultivation thereby obviating municipal regulations). Additionally, the Province can exempt itself from municipal land use regulations, such as by exempting provincially operated distribution and retail facilities from municipal zoning bylaws.

Naturally, provincial and federal cannabis rules will define the scope of rules that the RMOW can or should enact. Although little is yet known what the regulatory environment for land uses like home cultivation and cannabis lounges will look like in B.C. (or if these uses will even be allowed), recent federal and provincial announcements provide some insight as to how the production, distribution and retail environment for recreational cannabis will operate.

In November of 2017, the federal government released a discussion paper on its proposed regulations for cannabis producers. The proposed regulatory framework is extensive and complex but appears to propose no limits on the number of producers in Canada, allowing “craft” producers, and allowing producers with existing ACMPR licenses (which would include Whistler Medicinal Marijuana Corporation) to expand into the recreational cannabis market. The proposed rules also appear to place no limits on the types of licenses a producer can hold and contemplate producers being able to obtain both a retail license and production license for the same facility.

On December 5, 2017, the Province released a statement suggesting the framework for cannabis retail and distribution would be similar to how alcohol is sold and distributed in B.C. The Province has stated it will control cannabis distribution through the Liquor Distribution Branch and that it anticipates a public/private retail model that includes both government run and private sector retailers that will sell cannabis to consumers. At time of writing, there is no draft legislation available for review and no further details related to this regulatory regime have been provided. The Province is expected to provide more information early this year.

Although the framework for production, distribution and retail of recreational cannabis is still in a state of flux, it appears that the probable makeup of this system in B.C can be described as follows:

- There will be variety of private sector producers in B.C. Some of these producers may transition or expand from producing medicinal cannabis to producing recreational cannabis. Producers may or may not be allowed to retail cannabis in a manner similar to how craft breweries retail alcohol.
- The Province will hold a monopoly on recreational cannabis distribution in B.C. through the Liquor Distribution Branch. Provincial distribution facilities may or may not be subject to municipal zoning. There is no indication that such a facility is proposed for Whistler.
- Private-sector retailers will be permitted in B.C. and will likely be subject to municipal zoning.
- The Province will also be a retailer of recreational cannabis and may or may not be subject to municipal zoning.

Whistler’s existing zoning rules for production, distribution and retail rely on the federal legislative framework that predates the *Cannabis Act*. Subsequently, they do not reflect the probable aspects of the new recreational cannabis industry noted above. Staff now have sufficient information to bring forward zoning amendments which will ensure that the current zoning framework for cannabis remains enforceable and relevant. It is recognized that future bylaw changes may be required as the framework for cannabis in B.C. unfolds, specifically with regard to aspects of the recreational cannabis industry that the Province has yet to permit and regulate (e.g. cannabis lounges, and home-cultivation). With the federal/provincial regulation process unfolding quickly to meet the July 2018 deadline, this incremental (and somewhat reactive) approach is warranted.

**Proposed Zoning Amendment Bylaw (Cannabis Retail, Production and Distribution) No. 2159, 2017**

The *Cannabis Act* will remove cannabis as a prohibited substance from Schedule 2 of the *Controlled Drugs and Substances Act* (CDSA) and subsequently enacted provincial legislation will legalize cannabis retail in BC. The RMOW’s Zoning Bylaw currently references Schedule 2 of the CDSA to define “marihuana production” and “marihuana distribution” and these terms were defined and used to describe these activities under the MMPR/ACMPR system, which prohibited cannabis retail, allowing only the “mail order” distribution system described earlier in this Report. The Zoning Bylaw contains a general prohibition on production and distribution of cannabis in Part 4 and the Whistler Medical Marihuana Corporation site is the only site authorized for production and distribution through a provision in the Light Industrial Two (IL2) zone. The existing zoning rules do not specifically speak to retail, nor do they reflect the new distribution model that the Province will be implementing.

The proposed amendments would replace the existing definitions of “marihuana production” and “marihuana distribution” with a definition of “cannabis” which mirrors the definition in the *Cannabis Act*. The proposed Bylaw will expand the existing general prohibition on cannabis production and distribution to also prohibit retailing cannabis anywhere in the RMOW. The site-specific regulation found in the IL2 zone allowing the Whistler Medical Marihuana Corporation to produce and distribute cannabis will be updated to reflect these changes, however, retail will not be permitted on this site or anywhere else in Whistler. Additionally, cannabis distribution from this facility will be limited to shipping cannabis produced on site. The new bylaw regulations do not distinguish between recreational cannabis and medicinal cannabis; meaning the rules for each are the same.

The net effect of the proposed Bylaw will be continuity of existing cannabis regulations in Whistler, i.e. retail will remain prohibited and production and distribution will remain limited to a single site in Function Junction. Whistler Medical Marihuana Corporation’s current operating model will be permitted under the new zoning rules, regardless of whether they produce medicinal cannabis or obtain additional federal and provincial licenses to produce recreational cannabis.

It should be noted that should the Province elect to exempt its own retail and distribution facilities from municipal bylaws, these new zoning regulations will not apply to provincially run facilities. The RMOW’s written submission on the provincial regulatory framework (Appendix “B”), advocates for provincial facilities to comply with municipal zoning requirements. Staff intend to continue to make this position clear in any future discussions with the Province.

As noted above, staff intend to re-examine these rules once the full scope of the provincial and federal regulatory framework for recreational cannabis is revealed and bring forward additional bylaw amendments as warranted.

**WHISTLER 2020 ANALYSIS**

W2020 Strategy	TOWARD Descriptions of success that resolution moves us toward	Comments
Energy	Energy is generated, distributed and used efficiently, through market transformation, design and appropriate end uses.	Cannabis production is an energy intensive process. Production will continue to be limited to a single site, which will in turn limit energy demands for cannabis production.
Health and Social	Whistler organizations and stakeholders work together to meet the health and	The amendments are not expected to limit access to medicinal cannabis.

	social needs of community members and visitors.	
Health and Social	Community members eat healthy food, exercise and engage in leisure and other stress relieving activities that assist in preventing illness and they avoid the abusive use of substances that evidence indicates have negative effects on physical and mental health.	The proposed amendments will provide time for the RMOW to carefully consider if and how to introduce recreational cannabis in Whistler.

The compilation and dissemination of the attached report does not move our community away from any of the adopted Whistler2020 Descriptions of Success.

### OTHER POLICY CONSIDERATIONS

A review of the relevant objectives and policies of the Official Community Plan is described in the table below.

Objective/Policy	Comments
<b>Objective 3.1.2</b> – Optimize the use and function of existing and approved development.	The proposed amendments allow Whistler’s only existing cannabis production facility to transition from producing medicinal to producing recreational cannabis. This will help meet the demands of the new recreational cannabis industry with existing facilities.
<b>Policy 3.1.1.2</b> – Contain Whistler urban development within the boundary of the Whistler Urban Development Containment Area.	The property where cannabis production is permitted is within the boundary of the Whistler Urban Development Containment Area.
<b>Policy 3.1.2.1</b> – Support flexibility, diversity, adaptability and efficiency in land use and development so the resort community can derive the greatest benefit from existing development.	The rezoning supports this policy by providing increased clarity around the permitted uses for cannabis production and distribution.
<b>Objective 3.2.1</b> – Reinforce Whistler’s mountain resort character, compact development pattern, social fabric, economic viability and diversity.	The proposed bylaw amendments allow time to consider both the potential negative and potential positive impacts of a recreational cannabis industry on Whistler’s mountain culture and resort economy.
<b>Policy 3.2.1.4</b> – Support land uses and development that contribute to a diversified tourism economy compatible with Whistler’s resort character and values.	By limiting cannabis production and distribution to the existing facility in Function Junction, the community’s current needs for this product can be met while the impact on tourism/resort-focused land uses is considered.
<b>Objective 4.9.4</b> – Reinforce Function Junction as Whistler’s general purpose business district and “Back-of-House” area for the resort community.	Function Junction is an appropriate location for cannabis production as this neighbourhood is designed to host industrial uses and is a discrete “back-of-house” location.
<b>Policy 4.9.4.1</b> – Review and rationalize zoning designations to provide flexibility and compatibility for a wide range of uses appropriately located in Function Junction.	Allowing for the existing cannabis production facility provides for flexibility in the IL2 zone and is compatible with similar warehouse/light industrial uses.

<b>Policy 8.4.1.3</b> – Lead a community-wide effort to reduce total energy consumption to a level 10% below 2007 levels by 2020.	Cannabis production is an energy intensive process. Production will continue to be limited to a single site, which will in turn limit community energy consumption.
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## **BUDGET CONSIDERATIONS**

As the RMOW is initiating this zoning amendment, rezoning application and processing fees do not apply. All costs associated with staff time for the rezoning application will be covered within existing staff budgets.

## **COMMUNITY ENGAGEMENT AND CONSULTATION**

Prior to approval a Public Hearing must be held for “Zoning Amendment Bylaw (Cannabis Retail, Production and Distribution) No. 2159, 2017” and statutory public notice requirements must be met.

## **SUMMARY**

This Report presents “Zoning Amendment Bylaw (Cannabis Retail, Production and Distribution) No. 2159, 2017” that updates existing Zoning Bylaw restrictions regulating the production, distribution and retail of cannabis in anticipation of the expected legalization of cannabis in July of 2018. These amendments are intended to maintain the status quo for the production and sale of cannabis in Whistler; providing time for the RMOW to monitor the development of provincial and federal regulations and to determine if and how this industry will be introduced in Whistler once the full scope of the provincial/federal regulatory framework has been revealed. Staff intend to monitor the progress of this process and bring forward further Bylaw amendments at a later date. Staff recommend that the proposed bylaw be given first and second readings and proceed to Public Hearing.

Respectfully submitted,

Jake Belobaba  
SENIOR PLANNER  
and

Brook McCrady  
PLANNING ANALYST  
for

Jan Jansen  
GENERAL MANAGER OF RESORT EXPERIENCE

**RESORT MUNICIPALITY OF WHISTLER**

**ZONING AMENDMENT BYLAW (CANNABIS RETAIL, PRODUCTION AND DISTRIBUTION) NO. 2159,  
2017**

**A BYLAW TO AMEND THE RESORT MUNICIPALITY OF WHISTLER “ZONING AND PARKING  
BYLAW NO. 303, 2015”**

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**WHEREAS** the Council may in a zoning bylaw pursuant to the *Local Government Act*, divide all or part of the area of the Municipality into zones, name each zone and establish the boundaries of the zone, and regulate the use of land, buildings and structures within the zones;

**NOW THEREFORE** the Council of the Resort Municipality of Whistler, in open meeting assembled, **ENACTS AS FOLLOWS:**

1. This Bylaw may be cited for all purposes as “Zoning Amendment Bylaw (Cannabis Production and Distribution) No. 2159, 2017”.

2. “Zoning and Parking Bylaw No. 303, 2015” is amended:

(a) In subsection (1) of “Part 2, Interpretation”, by deleting the definition of “marihuana production” and “marihuana distribution”, and inserting the following new definition in the appropriate alphabetic order:

“cannabis” means a cannabis plant including:

- (1) Any part of a cannabis plant, including the phytocannabinoids produced by, or found in, such a plant, regardless of whether that part has been processed or not;
- (2) Any substance or mixture of substances that contains or has on it any part of such a plant; and
- (3) Any substance that is identical to any phytocannabinoid produced by, or found in, such a plant, regardless of how the substance was obtained;

but does not include:

- (1) A non-viable seed of a cannabis plant;
- (2) A mature stalk, without any leaf, flower, seed or branch, of such a plant;
- (3) Fibre derived from a stalk referred to in item 2; and
- (4) The root or any part of the root of such a plant.

(b) In “Part 4, General Prohibitions”, by replacing subsection 1. (8) with the following text:

“No person shall use any land or building for the retail sale of cannabis, and except as specifically permitted by this Bylaw no person shall use any land or building for the production or distribution of cannabis.”

and;

(c) By replacing subsection 2. (2)(t) of “Part 10, Industrial Zones” with the following:

“on Strata Lots 11, 12 and 13 in Strata Plan BCS4326, production and distribution of cannabis, but only to the extent authorized by a federal licence if a federal licence is required, and provided that: the total floor area used for all such uses shall not exceed 900 square

Zoning Amendment Bylaw (Cannabis Retail, Production and Distribution) No. 2159, 2017

metres; the distribution of cannabis is limited to cannabis produced on the premises; and the retail sale of cannabis is prohibited.”

GIVEN FIRST and SECOND READING this \_\_\_ day of \_\_\_\_\_, 2018.

Pursuant to Section 464 of the *Local Government Act*, a Public Hearing was held this \_\_\_ day of \_\_\_\_\_, 2018.

GIVEN THIRD READING this \_\_\_ day of \_\_\_\_\_, 2018

Approved by the Minister of Transportation and Infrastructure this \_\_\_ day of \_\_\_\_\_, 2018.

ADOPTED by the Council this \_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Nancy Wilhelm-Morden,  
Mayor

\_\_\_\_\_  
Brooke Browning,  
Municipal Clerk

I HEREBY CERTIFY that this is a true copy of  
“Zoning Amendment Bylaw (Cannabis Retail,  
Production and Distribution) No. 2159, 2017”

\_\_\_\_\_  
Brooke Browning,  
Municipal Clerk




**THE RESORT MUNICIPALITY OF WHISTLER**

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Ministry of Public Safety and Solicitor General  
PO Box 9285, Stn Prov Govt  
Victoria BC V8W 9J7  
Via email: [cannabis.secretariat@gov.bc.ca](mailto:cannabis.secretariat@gov.bc.ca)

November 1, 2018  
File: 4912

Dear Minister Farnworth

On behalf of the Resort Municipality of Whistler (RMOW), I thank you for the opportunity to provide feedback on the legalization and regulation of recreational cannabis in BC. The response herein provides initial comments on each of the issues noted in the Ministry's discussion paper. Our comments also seek to highlight and distinguish between those items that we believe should be the responsibility of federal and provincial levels of government, and those that should remain subject to local government or other authorities. Additionally, in cases where the Province may elect to play a direct role in the recreational cannabis market—specifically retail and distribution—our response stresses the importance of ensuring municipal bylaws and policies (e.g. zoning and business regulations) will not be overridden. We note there was a limited timeframe for submitting these initial comments. However, we understand that there will be ongoing opportunities to provide input, including through the Joint Provincial-Local Government Committee on Cannabis Regulation.

As BC's largest resort municipality, with over 3 million visitors per year, the overall experience provided to our visitors is critical to our resort economy and Whistler's economic contributions to the Province. Determining if and how cannabis consumption businesses, retail, production and distribution are introduced in the resort community and how cannabis will be used is critical to maintaining the Whistler experience. Similarly, revenue-sharing mechanisms must be part of any provincial government regulation and taxation program to ensure that Whistler has the resources to continue to provide a world-class resort experience where recreational cannabis is legal for Whistler's residents and visitors.

### Minimum Age

The RMOW supports aligning the minimum age for recreational cannabis purchase, possession and use with the minimum age for alcohol (19 years). As a community with a higher than average proportion young people, the RMOW is concerned about the risks of cannabis use on youth. However, misaligned age restrictions for alcohol and cannabis will simply cause youth to obtain cannabis from the illicit market. Robust public education and mental health campaigns are the best approaches to mitigating the harms of cannabis on youth. These education programs and enforcing age restrictions for cannabis should be the responsibility of the Province.

### Personal Possession-Adults

For the sake of consistency, the RMOW recommends setting personal possession limits that are identical to federally established limits. Stricter personal possession limits are likely to be difficult to enforce, may be confusing for people visiting from outside BC and are less likely to be as effective at



mitigating harms of use as other tools. Enforcing personal possession limits should be the responsibility of the federal government or the Province.

### Personal Possession-Youths

The RMOW supports a prohibition on youth possession and use, similar to existing regulations for alcohol, provided these regulations have an educational focus and do not “criminalize” youth. These laws should be complimented with youth-focused public education efforts that educate youth on the harms of underage cannabis use. These education programs and enforcing youth possession regulations should be the responsibility of the Province.

### Public Consumption

The RMOW supports extending existing provincial restrictions prohibiting tobacco smoking and vaping in certain areas to cannabis. However, the RMOW also recommends a general prohibition on any public consumption of cannabis with regulations that allow municipalities to designate areas where public consumption is permitted. These regulations could be similar to existing rules in [section 73 of the \*Liquor Control and Licensing Act\*](#). We note that while similarities exist between tobacco and cannabis use—cannabis is also an intoxicant and in the context of public consumption, rules for cannabis should not only align with rules for tobacco, but also with rules for alcohol. With regard to enforcing provincial public consumption laws, the RMOW expects that the Province will develop and implement an enforcement framework and funding model for this.

A more fulsome understanding of the impacts of licensed designated consumption areas (e.g. cannabis lounges)—specifically the potential nuisances and health impacts on workers, customers, and neighbours—is required to inform an effective regulatory framework. If the Province elects to legalize these types of businesses, any type of licensing program for these businesses should fall to the Province to administer and enforce. Additionally, the Province should take the lead on identifying the potential impacts of these types of businesses and disseminating this information to local governments so they can make informed decisions on whether or not to allow these types of businesses in their communities.

### Drug-impaired Driving

To combat cannabis-impaired driving, the RMOW recommends that the Province:

- Develop and implement an extensive public education and awareness campaign to educate drivers—specifically young drivers—on the dangers of cannabis-impaired driving.
- Allocate financial resources to support local law enforcement agencies in enforcing drug-impaired driving laws and to recognize that these needs will change as technology and the legal framework related to cannabis-impaired driving evolves.
- Expand Immediate Roadside Prohibition (IRP), Administrative Driving Prohibition (ADP) and similar programmes to include cannabis impairment and ensure these programs include administration and appeal processes that are effective at identifying and punishing drivers who have used cannabis irresponsibly.



- Enact laws prohibiting cannabis transported in a vehicle from being accessible to the driver, similar to “open alcohol” rules in [section 76 of the Liquor Control and Licensing Act](#).

Public education and outreach has the broadest reach and the proactive benefit of *preventing* impaired driving. Although investing in other techniques is also required, it goes without saying that the Province should make a substantial and early investment in this area.

Local police needs are likely to change once cannabis is legalized and again later as new techniques and science related to impairment levels and detection emerge. In the absence of proven screening devices and impairment thresholds (i.e. THC concentrations in the body) for cannabis, provincial investment in this area should initially focus on increasing the police presence on roads, and training more officers as Drug Recognition Experts (DRE’s). Currently, the Whistler RCMP detachment has only one officer certified as a DRE. Many other BC municipalities are likely in the same situation or have no DRE’s at all. As roadside screening devices and “per se” impairment limits are developed, further funding will likely be required to equip and train local police forces on these new methods.

IRP, ADP and similar programs for alcohol-impaired driving have proven effective in reducing incidences of impaired driving in BC and the RMOW is confident similar programs for cannabis-impaired driving would also be effective. Noting the evolution of these programs for alcohol-impaired driving, their summary-like punishments and the current lack of per se impairment limits and detection devices for cannabis, it may be prudent for the Province to develop administration and appeals processes that are well-adapted to the unique challenges of identifying and penalizing cannabis-impaired drivers.

Additionally, though not mentioned in the Ministry’s discussion paper, the RMOW recommends enacting laws similar to “open alcohol” laws that would prevent cannabis from being accessible to a driver. These additional laws would complement criminal impairment laws and IRP/ADP programs by helping to prevent drivers from becoming impaired from second-hand cannabis smoke, aligning with existing rules for alcohol and generally discouraging the use of cannabis in vehicles. It is our understanding that Alberta may also be considering such legislation.

Any laws and regulations pertaining to drug-impaired driving or the use and possession of cannabis in relation to motor vehicles should be the responsibility of the Province to enforce with resources provided to local police departments to cover additional policing costs.

### Personal Cultivation

The RMOW recommends that provincial cultivation laws place no further restrictions on the number, size and location (i.e. indoor or outdoor) of plants that may be grown in homes. Instead the RMOW recommends the following:

- Educating strata corporations and landlords on their existing powers to enact and enforce bylaws and tenancy rules prohibiting or restricting recreational cannabis cultivation. Similarly, educating homeowners and tenants on their rights and responsibilities related to home cultivation through provincial agencies like the Residential Tenancy Branch.
- Amending the *Residential Tenancy Act* to allow landlords bound by existing tenancy agreements to impose new rules prohibiting or restricting recreational cannabis production and allowing



landlords to collect “cannabis deposits”, similar to pet deposits when indoor cultivation is an agreed-upon term of tenancy.

Strata corporations, landlords and municipalities already have powers under their respective legislation to prohibit or restrict recreational cannabis cultivation. Municipalities also have existing licensing powers and could elect to use them to regulate home cultivation. With the exception of the *Residential Tenancy Act* issue noted below, there are no existing barriers that would prevent municipalities, landlords and strata corporations from enacting home cultivation rules adapted to their specific concerns and circumstances. The appropriateness of home cultivation and associated safety and security measures will vary greatly between different homes and communities. Therefore, it would be prudent to allow—but not require—strata corporations, municipalities and landlords to develop and enforce rules for home cultivation that are most appropriate. Provincial regulations in this area are more likely to be imprecise and overbearing.

Where landlords are subject to existing tenancy agreements, the *Residential Tenancy Act* currently prohibits a landlord from adding new terms to the tenancy agreement. It is not likely that landlords in this situation will be able to prohibit recreational cannabis cultivation on their property once the *Cannabis Act* comes into force. If the *Residential Tenancy Act* is left unchanged, landlords may seek ways to evict tenants (e.g. through “renovictions”) as a means of establishing new tenancies with rules prohibiting cannabis cultivation. This would have obvious impacts on housing which is already a major concern in Whistler and other areas of the province. Growing recreational cannabis is not a necessity or inherent right of tenancy. Like pets and smoking, cannabis cultivation may, in certain circumstances, be a health and safety concern or cause property damage. It would be appropriate and fair to ensure all landlords are given the chance to decide whether recreational cannabis can be grown on their property under existing tenancy agreements. Additionally, giving landlords and tenants the option of “cannabis deposits” provides a valuable tool to assist landlords and tenants in creating mutually-agreeable tenancy agreements and preventing tenancy disputes.

While municipalities, landlords and strata corporations can be expected to enforce any rules they enact regulating home cultivation, enforcing any additional Provincial regulations, or the federal limits on the size and number of plants, should be the responsibility of the provincial and/or federal governments.

#### Distribution Model

The RMOW supports a distribution model that:

- Minimizes illegal supply chains for cannabis.
- Maintains municipal zoning control and business regulations over distribution facilities.
- Allows retailers and ultimately customers to select cannabis products from the suppliers they prefer by offering products from a variety of producers, including local or small-scale producers, while providing adequate controls to prevent criminal activity.

The RMOW does not recommend a particular distribution model per se, but rather one where all of the above conditions are met.



### Retail Model

The RMOW supports a retail model that:

- Minimizes the influence and presence of criminal elements in the cannabis retail market.
- Retains municipal zoning and land use controls and business regulations over retail facilities.
- Keeps prices reasonable for consumers, so as to ensure that the legal cannabis market has a competitive advantage over the illicit market.
- Gives communities control over the local retail model so as to make it responsive and adaptable to local issues, concerns and consumer preferences (e.g. location, number, character, hours of operation etc.)
- Ensures communities share in the economic benefits created by cannabis retailing, including distributing a portion of provincial cannabis sales taxes to the communities where cannabis is sold.

Considering the above, a provincial retail monopoly or a hybrid system where the Province is a retailer, raises a particular concern that should be addressed in any legislation establishing the Province as a cannabis retailer. Generally, the Province is exempt from enactments that bind or affect it in the use of land. In the case of cannabis, this power may exempt provincial cannabis retailers from municipal zoning bylaws, allowing the Province to locate cannabis retail facilities in any municipality against the wishes of the community. Such overriding powers are unnecessary for the retail of recreational cannabis and municipalities should have the final say on if and where recreational cannabis facilities are located in their communities.

Should the Province pursue a provincially-run system, the RMOW recommends that the legislation enabling provincial control require provincial cannabis retail facilities to comply with local zoning and other municipal bylaws.

### Summary

We trust that the points we have raised in this response will prove informative in shaping a framework for legal cannabis in BC that is safe and enjoyable for everyone. We look forward to the continued engagement with the Province on this issue. Again we thank you for the opportunity to comment on this matter.

On behalf of the Resort Municipality of Whistler

Nancy Wilhelm-Morden  
Mayor